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PRYOR CASHMAN LLP

New York | Los Angeles

410 Park Avenue, New York, NY 10022 Tel: 212-421-4100 Fax: 212-326-0806

www.pryorcashman.com

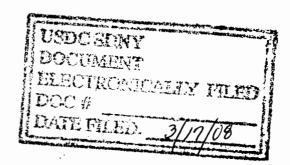


## MEMO ENDORSED

Mark A. Tamoshunas
Attomey at Law

Direct Tel: 212-326-0438 Direct Fax: 212-798-6932 mtamoshunas@pryoreashman.com

March 14, 2008



## Via Facsimile

Hon. Kevin Nathaniel Fox United States Magistrate Judge Daniel Patrick Moynihan United States Courthouse 500 Pearl Street, Room 540 New York, NY 10007

Re: Jones v. Roc-A-Fella Films, Inc. et al., 07 Civ. 3648

Dear Judge Fox:

We represent Lions Gate Films, Inc. and write in response to Mr. Dunlop's letter earlier today opposing Defendants' request for an extension of the discovery schedule to depose Mr. Welton and Mr. Guido.

Mr. Dunlop opposes the request to depose Mr. Welton on the grounds that Plaintiff testified at his deposition in December of 2007 that Mr. Welton accompanied him to two meetings with Damon Dash and others. Plaintiff, however, failed to identify Mr. Welton in his initial disclosures as an individual who is likely to have discoverable information that Plaintiff "may use to support [his] claims." Fed.R.Civ.Proc. 26(a)(1)(A). Nor did he identify Mr. Welton in response to Lions Gate's Interrogatory requesting that Plaintiff identify "each person who has, claims to have or whom you believe may have knowledge or information pertaining to any of the allegations contained in the Complaint or to the underlying subject matter of this action." Finally, even after Plaintiff's deposition, he failed to amend his initial disclosures and interrogatory responses until the last day of discovery.

Now that Defendants have relied on Plaintiff's initial disclosures and interrogatories, Plaintiff should not be permitted to sandbag Defendants by belatedly designating Mr. Welton as a witness. Either Defendants should be permitted to take his deposition or his testimony should be precluded.

Mar-14-2008 07:35pm From-Pryor Cashman LLP

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With respect to Mr. Guido, Plaintiff similarly failed to disclose him as a person whose testimony may be used to support his claims until the last day of discovery. As with Mr. Welton, his identity as a witness was known to Plaintiff before this case was commenced. Indeed, Plaintiff claims that he spoke to Mr. Guido to discuss selling his work while Mr. Guido was acting on Mr. Dash's behalf. As Defendants still have not been able to even speak to Mr. Guido, they should be permitted to depose him if necessary. If Defendants do not have that opportunity, we respectfully request that Plaintiff be precluded from calling him as a witness.

Respectfully submitted,

Mark A. Tamoshunas

cc: Ambrose Wotorson, Esq., counsel for Plaintiff, via fax Victor A. Dunlop, Esq., counsel for Plaintiff, via fax Stephen Wagner, Esq., counsel for Defendants Roc-A-Fella Films, Inc. and Damon Dash, via fax

> and Michael Guido are to be taken on or before March 31, 2008. Flory dispositive motion shall be served and filed on or before April 15, 2008. The response to any such notion shall be served and filed on or before May 13, 2008, any reply shall be served and filed on or before

Hon. Kevin Nathaniel Fox

United States Magistrate Judge